

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:) Case No. 16-03686-5-SWH
)
KING DAN RIVES) Chapter 13
MARYDEL HART RIVES)
Debtors.)
-----)

RESPONSE TO MOTION FOR RELIEF FROM STAY

NOW COME the Debtors, by and through their undersigned attorney, and respond in opposition to the motion for relief from the automatic stay filed by Credit Acceptance Corp. on August 23, 2016. By way of further response, the Debtors show as follows:

1. In its motion, Credit Acceptance Corporation alleges a lien on a 2004 Ford. However, pre-petition, Credit Acceptance Corporation released that lien. A copy of the title bearing such release is attached as exhibit A to this response.
2. Accordingly, the lien, to the extent that it exists, is unperfected.
3. The vehicle involved in this matter has serious emissions issues preventing it from being registered for operation. The Debtors are continuing to evaluate what their long-term objective for this vehicle might be.
4. Regardless of the foregoing, in the absence of a properly perfected lien the Debtors believe relief from the stay is inappropriate, and does not preserve the interests the bankruptcy estate may have in this matter. The Debtors specifically object to release and turnover provisions, as it is unclear by what mechanism the creditor will proceed to sell the collateral.

WHEREFORE, the Debtors respectfully request that the Court:

1. Deny the motion for relief from the automatic stay, and
2. Grant such other relief as the Court deems just and proper.

Respectfully submitted, this the 9th day of September, 2016

s/ Erich M. Fabricius

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached response, was served this day on the following parties:

John F. Logan
Chapter 13 Trustee
(electronic notice via CM/ECF)

Pamela Keenan
Attorney for Credit Acceptance Corp.
(electronic notice via CM/ECF)

This 9th day of September 2016

s/ Erich M. Fabricius